

IN THE MATTER OF

**MELVILLE CHAPEL  
UNITED METHODIST CHURCH**

Petitioner

: BEFORE THE  
:  
: HOWARD COUNTY  
:  
: BOARD OF APPEALS  
:  
: HEARING EXAMINER  
:  
: BA Case No. 07-013C

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### **DECISION AND ORDER**

On September 10, 2007, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the petition of Melville Chapel United Methodist Church for a conditional use religious facility and to expand a religious facility in an R-12 district ( Residential: Single) by constructing a one-story addition behind an existing one-story structure, filed pursuant to Section 131.N.39 of the Howard County Zoning Regulations (the "Zoning Regulations").

The Petitioner certified that notice of the hearing was advertised and that the subject property was posted as required by the Howard County Code. I viewed the subject property as required by the Hearing Examiner Rules of Procedure.

J. Edward Head the Board of Trustees Chairman, and the Reverend Lesley Metcalf testified in support of the petition. No one appeared in opposition to the petition.

### **FINDINGS OF FACT**

Based upon the preponderance of evidence presented at the hearing, I find the following facts:

1. The subject property, 5660 Furnace Avenue ("the Property"), Elkridge, is located in the 1<sup>st</sup> Election District on the west side of Furnace Avenue approximately 900 feet south of US 1.

The Property is referenced on Tax Map 38, Grid 4, as Parcel 433. It is zoned R-12 (Residential: Single).

2. The Property is an L-shaped, 3.51-acre parcel with about 280 frontage feet on the west side of Furnace Avenue. The southern side property line extends about 1,000 feet west to Railroad Avenue, where the rear property line narrows to about 150 feet.

3. The Property is listed on the Howard County Historic Sites Inventory as HO0383, the Melville M.E. Church and Cemetery. According to that Inventory, the two-story brick Gothic Church was built around 1885. The Church lies about 80 feet from Furnace Road and 85 feet from the south property line.

4. North of the Church and about 40 feet from Furnace Road is a 30-foot by 45-foot, one-story brick building identified as the "Annex Building," to the rear of which is a 9 x 20-foot storage container and a small shed.

5. Behind the Church parking lot and extending to Railroad Avenue is a cemetery listed as #38-6 on the Howard County Cemeteries and Gravesites Inventory, which indicates the cemetery contains 100+ graves.

6. A circular, one-way driveway provides access to the site from Furnace Avenue. The entrance lies about 75 feet from the northern property line, the exit about 90 feet from the southern property line. There are 46 striped parking spaces on the Property. The driveway leads to 36 parking spaces on three sides of the Church and one reserved space in front. In front of the Annex Building are six spaces, including one handicapped space. In the grass area south of this building are two spaces.

The Department of Planning and Zoning's Technical Staff Report (the "DPZ Report") notes the six parking spaces may encroach on the 20-foot parking use setback from Furnace Road and that they limit sight distance to the north. The DPZ Report

further states these spaces may not provide sufficiently safe access and use for the proposed intensification of use and recommends these possible encroachment and safety issues be evaluated at the Site Development Plan ("SDP") stage.

7. To the Property's north and south are two R-12 zoned parcels, each of which is improved with a single-family detached dwelling. Across Furnace Road and to the east are several parcels zoned CAC-CLI (Corridor Activity Center: Continuing Light Industrial). Parcel 623, directly across from the driveway exit is Universal Contractors, a commercial topsoil and mulch facility with multiple structures and a large outdoor materials storage area in the property's back section. North of the Property, Parcel 782, the Volleyball House, is improved with several metal commercial structures.

8. Roads: Furnace Lane has one travel lane in each direction and about 20 feet of paving. The posted speed limit is 25 miles per hour. From the northern entrance driveway, visibility to the north is limited by shrubbery on the adjacent property. Visibility to the south is good, with a sight distance of more than 500 feet. From the southern exit driveway, visibility to the north is good with a sight distance of about 700 feet. Visibility to the south is good, with a sight distance of more than 500 feet.

9. The Property is served by public water and sewer facilities. Policies Map 2000-2020 of the 2000 General Plan designates the Property as "Residential." Transportation Map 2000-2020 of the 2000 General Plan depicts Furnace Avenue as a minor collector.

10. The Church is used almost exclusively for worship services and associated activities, including committee and organization meetings and functions related to the Church's mission, services, and community outreach programs. Religious services are principally on Sundays. About 80 persons attend worship service and occasionally the number reaches 100. The Church

employs four employees: a full-time pastor, and three part-time contract employees who work about eight hours a week.

11. The submitted plan states there are 20, 20-foot long pews in the Church and 44 existing parking spaces. Because 67 parking spaces are required, the DPZ Report notes that the additional spaces would need to be addressed in the SDP. Reverend Metcalf testified the petition mistakenly identifies the size of the pews as 20 feet in length, because they are actually only ten feet long. Based on the revised total of 200 feet of bench length (100 seats), 33 or 34 parking spaces would be required and 44 existing parking spaces are shown on the plan.

12. The Annex Building is used primarily for the Church's mission, outreach, and community work (the "Love Mission"), including the Elkridge Food Pantry, the Clothes Closet, and the Community Garden. The Food Pantry is open for four hours on the second and fourth Friday of each month. About 40 attend the Love Mission functions with a maximum of 25 associated vehicles. The petition also includes a Memorandum of Understanding between the Board of Trustees of Melville Chapel United Methodist Church and representatives of the volunteer groups using the Church's facilities, including the Elkridge Food Pantry, the Close Closet, and the Community Garden. The Memorandum addresses liability, use, maintenance, and other matters.

13. The Petitioner proposes to construct a one-story addition (the "Addition") to an existing one-story brick building, the Annex Building. A June 26, 2007 letter to DPZ and included in the petition states the Addition would be one story, and possibly two stories, and would not exceed the maximum allowable height. The letter describes the proposed Addition as a pre-engineered building with a 40-foot by 100-foot footprint. The Addition would be attached to the rear of the Annex Building by an approximately 15-foot by 20-foot connection. The Addition would

provide space for a small commercial kitchen and a meeting hall to be used for church dinners, social gatherings, and certain Love Mission uses.

14. DPZ's Comment #3 (attached to the DPZ Report) states that additional information is needed about the size of the proposed Addition, because a second story could double the number of required parking spaces. In response to questioning about the Addition's size, Mr. Head stated that there was a possibility of the proposed Addition being two stories but presented no specific information on its possible design and square footage. It was his understanding that the proposed Addition was a principal use and would meet RC-12 height limitations.

15. The Petitioner is also requesting the Hearing Authority to clarify the historic, present, and ongoing use of the property as an ongoing religious facility. To this end, the petition states the present Church building was constructed as a sanctuary and worship facility in 1885 and that this has been its continuing usage since that time. The petition also states the Annex Building was purchased in the early 1960s and its continuing usage has connected to the worship, mission, and outreach activities of the Church.

### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact, I conclude as follows:

#### **I. General Criteria for Conditional Uses (Section 131.B)**

According to the petition, the Church Building dates from about 1885 and there are no additions or changes in use proposed for this structure. The church purchased the Annex Building in the early 1960s and apparently has used it continuously for worship, mission, and outreach activities. The nature of the proposed Addition use will be similar to the uses of the Annex Building. The Addition will not cause an increase in the Love Mission's hours of operation, although there may be a modest increase in the traffic associated with an

intensification of use. Additionally, worship services occur principally on Sunday and other activities will occur principally on weekdays and evenings.

The General Plan. The Howard County General Plan designates the area in which the Property is located as a "Residential Area" land use. The proposed Conditional Use is for the expansion of a long-existing religious facility use on the Property. A religious facility is presumptively considered compatible with residential area land use. The Proposed 40-foot by 100-foot Addition will be attached to the rear of the existing Annex Building, would not be highly visible from a public road, and will comply with all setback requirements. The Property is also located along a minor collector road.

Accordingly, with the condition that the issue of the six parking spaces in front of the Annex Building be addressed at the SDP stage, the nature and intensity of operation, the size of the Property in relation to the use, and the location of the Property with respect to streets giving access to the Property are such that the use will be in harmony with the land uses and policies indicated in the General Plan for the district, in accordance with Section 131.B.1.a.

The proposed Addition, a one-story expansion of the existing use of the Annex Building, is an appropriate size for the site. The petition states the proposed Addition may be two stories high and would not exceed the maximum allowable height, but the Petitioner offered no testimony or evidence about the possible second-story's design or square footage. Additionally, the proposed Addition is not a principal use, as the Petitioner believed. The principal use on the Property is the Church building and the Addition would be an expansion of an accessory structure. The maximum height for an accessory building in an RC-12 zoning district is 25 feet (Section 104.E.2.d).

On the condition that the structure be only one story in height and comply with the height restrictions of an accessory use in an R-12 zoning district, the expansion of the Annex accessory use is an appropriate intensification of use and scale, given the adequacy of the existing and proposed buffers and setbacks, in accordance with Section 131.B.1.b.

Adverse Effect: The Petitioner has met its burden in presenting sufficient evidence to establish the existing and proposed uses will not have adverse effects on vicinal properties beyond those ordinarily associated with a religious facility use in an R-20 district. The proposed expansion of the Annex Building would comply with structure and use setbacks and the expanded use will not substantially differ from the existing use. The proposed expansion will be buffered by landscaping and sufficiently distant from adjacent properties, dwellings, and roadways.

Any noise, odor, or light generated by the uses will be attenuated by distance and will not be greater than that ordinarily associated with a religious facility use. Subject to a resolution of the DPZ's concern about the parking spaces in front of the Annex Building, the existing ingress and egress drive will likely provide adequate access with adequate sight distance. The use will therefore not generate excessive noise, dust, fumes, odors, lighting, vibrations, hazards or other physical conditions beyond those inherently associated with a religious facility in an R-20 zoning district, as required by Section 131.B.2.

Although the pew seating information in the petition would require 67 parking spaces, 23 more than are currently provided, Mr. Metcalf testified that the actual pew size is 10 feet, not the 20 feet stated in the petition, which would reduce the number of required parking spaces by half.. On this issue, the DPZ Report points out that Section 133.D.8 permits DPZ to determine the adequacy of off-street parking requirements in concert with other county agencies at the SDP

stage through a parking needs study and that any additional parking spaces could be provided in the unimproved area to the rear of the proposed Addition. Subject to the resolution of the necessary number of parking spaces through a parking needs study, the parking area will likely be adequate for the existing and proposed uses, as required by Section 131.B.2.

**II. Specific Criteria for Structures Used Primarily for Religious Activities (Section 131.N.39)**

Although the petition does not state the lot coverage, the DPZ Report concludes from the plan that the existing and proposed structures would coverage only a small percentage of the 3.51-acre Property. Because the lot coverage will not exceed 25 percent of the lot area, the proposed expansion and use complies with Section 131.N.39.a.

The height of the existing two-story church building is not known. However, as a structure that has existed on the Property for more than one hundred years, it is a noncomplying structure. As such, it is not required to meet current setback or height limitations.

The maximum height for an accessory building in an RC-12 zoning district is 25 feet (Section 104.E.2.d). The June 26, 200 letter to DPZ states the structure would be one story and possibly two stories and that it would not exceed the maximum allowable height. However, the only information in the petition from which the proposed Addition can be evaluated is the proposed one-story addition, which is unlikely to be higher than 25 feet. Thus, the proposed Addition must, and will likely meet, all setback and height limitation requirements, in accordance with Section 131.N.39.b.

Since no parking facilities are proposed to be located on a separate lot, Section 131.N.39.c is inapplicable.



**III. The Ongoing Use of the Property as a Religious Activity**

The Petitioner also asks the Hearing Authority to clarify the historic, present, and ongoing use of the Property as a religious facility.<sup>1</sup> However, the petition does not explain what is meant by this request, and nor did the Petitioner address this request at the hearing. For this reason, the request is dismissed.

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<sup>1</sup> If the Petitioner is requesting the Hearing Authority to confirm the factual existence of a nonconforming use, it must petition the Hearing Authority pursuant to the procedures set forth in Section 129.D of the Zoning Regulations.

**ORDER**

Based upon the foregoing, it is this 9<sup>th</sup> day **October 2007**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

1. That the request of Melville Chapel United Methodist Church for clarification of the historic, present, and ongoing use of the Property as a religious facility is hereby **DISMISSED**.
2. That the conditional use petition of Melville Chapel United Methodist Church to expand a religious facility through the addition of a one-story accessory structure to be located to the rear of the existing one-story Annex Building is hereby **GRANTED**;

**Provided, however, that:**

1. The conditional use shall be conducted in conformance with and shall apply only to the religious facility and uses described in the petition and depicted on the plan attached to the June 26, 200 letter to DPZ and included in the petition, and not to any other activities, uses, or structures on the Property.
2. The Petitioner shall comply with all applicable federal, state, and county laws and regulations.
3. The Petitioner must address all agency comments included in or attached to the DPZ Report.

**HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER**



Michele L. LeFaivre

**Date Mailed:** 10/10/07

**Notice:** A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.